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Lest We Forget: Celebrating Thirty Years of Clinical Legal Education at William Mitchell College of Law

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**LEST WE FORGET: CELEBRATING THIRTY YEARS
OF CLINICAL LEGAL EDUCATION
AT WILLIAM MITCHELL COLLEGE OF LAW¹**

Rosalie Wahl²

Friends, how wonderfully exciting to be with you this evening—to be together again—and to find one thing to celebrate on this otherwise calamitous day when the bombs began falling on Baghdad—the formal establishment thirty years ago of the Clinical Legal Education Program at William Mitchell College of Law. Not only were you here, you were the most essential ingredient in that arduous educational enterprise. It was for you, you and the clients you would represent as student attorneys and as practicing attorneys, that the William Mitchell College of Law sought to integrate your comprehension of basic legal principles of substantive and procedural law and the analytical skills you had gained from traditional methods of legal education with the competencies required “to participate effectively in the legal profession,” as amended standard 301(a) now puts it.

The year was 1973. Six years earlier, in 1967, the Minnesota Supreme Court, in its supervisory capacity, not on constitutional grounds, decided three misdemeanor cases—*State v. Borst*, *State v. Illingsworth*, and *State v. Collins*—in which they held that “in all statutory, traffic, or ordinance demeanor cases where the sentence upon conviction could be confinement in jail for even a brief time, the defendant must be furnished counsel if he is unable to retain an attorney.” These decisions opened the door in Minnesota to the development of law clinics in our law schools. Counsel was mandatory in these misdemeanor cases, and student attorneys under the supervision of licensed attorneys could fill the gap until public funding was obtained. What tremendous opportunities for

1. Speech given at Reunion of Early Clinic Directors and Participants, March 20, 2003.

2. Remarks by Rosalie Wahl, former Minnesota Supreme Court Justice and co-founder with Roger Haydock of the Clinical Legal Education Program at William Mitchell College of Law in 1973.

legal education this provided. Efforts to provide legal assistance to those unable to afford counsel in civil matters had been developing in the 1960s. Representation by student attorneys of indigent persons in both criminal and civil matters was included in the first student practice rule promulgated by the Minnesota Supreme Court.

Young Dean Douglas Heidenreich and young Professor Roger Haydock needed no more incentive. I was an assistant state public defender and an adjunct professor at the University of Minnesota Law School at that time, assisting Professor Robert Oliphant with the Misdemeanor Clinical Program he had established the previous year at the University Law School. I was supervising student attorneys and trying criminal misdemeanor cases in Hennepin County Municipal Court. I was learning the ropes of clinical education when I received a call from Dean Heidenreich asking me to come to William Mitchell and work with Roger Haydock, who was to be clinic director, to establish “a good, clinical legal education program.” We were given free rein, the little house across the alley from the law school to house the clinic, and lots of support. Never was I treated as less than a full faculty member.

Roger and I were intoxicated. We were in business. We envisioned a clinical component for every academic legal substantive class. We started, of course, with the civil law and the criminal misdemeanor clinics. I came on board in the summer of 1973, went to the four-week NITA Trial Advocacy Program in Boulder and an early conference of clinical educators sponsored by William Pincus and the Council on Legal Education for Professional Responsibility (CLEPR) in Buck Hill Falls, Pennsylvania. I was there, and so was Rose Bird from Boalt Hall at Berkeley. The Ford Foundation, through CLEPR, poured ten million dollars into clinical programs throughout the law school world, beginning with Harvard. We received no grants from any source. William Mitchell, with its own resources, committed itself to developing an outstanding clinical program.

Roger had seven students in his civil practice clinic in the summer of 1973. I supervised some of those students with their cases when Roger was out of town. Particularly, I remember Sandy Neren and her case involving a petition for a name change for a mother and her child before Judge Stanley Kane in Hennepin County District Court. Every month, the mother received a check

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from her ex-husband signed by the new wife. She sought to regain her pre-marriage name and asked that the child also take her name, as they lived together and she was raising him. The father appeared at the hearing and vociferously objected. Though I found out later that the child had been adopted, Judge Kane was persuaded by the father's passionate pleas on behalf of his male heir, and granted the mother's name change but not the child's. Years later, on the Supreme Court, I had the opportunity to dissent from the opinion of the court denying another petition for a name change, this time only to include the mother's name hyphenated with the father's name. A little note from Sandy Neren came in the mail. "Well," she said, "at least this time you could dissent."

The misdemeanor clinic, providing defense, and the appellate clinic, continuing my work with the State Public Defender's Office, now with the students involved in appellate practice, were first offered fall term, 1973. Some of you here may have been among those students who stayed in line all night to be able to get a place in the program. There were two sections of about twenty each in the misdemeanor program. We were off—working at first with legal assistance of Ramsey County before the Ramsey County Public Defender got funds for misdemeanor attorneys. Then we worked with Bill Falvey and the Public Defender's Office. For four years, every morning at 8:00 a.m. found me and at least three assigned students interviewing clients in the grim, smelly holding area and representing them in arraignment court. We represented clients in pretrials and at trial and developed attorney-client relationships. These students worked under some of the most difficult circumstances they would ever face.

Those years in the courts brought moments of truth to student attorneys and their professor as well. There we stood, looking at the criminal justice system from the bottom up, holding the same end of the stick as a grubby old defendant before the bench, and sharing the judges' respect or disdain for our client. It has ever been my hope that wherever you have been called to practice your profession—on the bench, in the legislature, as managing partner of a big law firm, or your solo firm, in prosecutor or defender offices, in public service of many kinds—that you would never forget standing there with that old defendant, holding the same end of the stick and looking at the system from the bottom up.

We added a prosecution segment to both the misdemeanor and appellate programs, as well as a felony clinic. Roger's civil

clinics grew by leaps and bounds. Students, as directors, helped run the clinic and served as student advisers in the preparation of cases.

Did our vision of every substantive academic subject having its clinical component come true? Maybe not completely yet, but the William Mitchell College of Law bulletin for 1977-78, just as I was leaving, listed, among other offerings—Bankruptcy Clinic, Civil Litigation Clinic, Civil Rights Clinic, Consumer Law Clinic, Corporate Practice Seminar Clinic, Criminal Appeals Clinic, Criminal Law Clinic, Family Law Clinic, Felony Law Clinic, Juvenile Law Clinic, LAMP Clinic, Legal Rights of the Mentally Disabled Clinic, Legislation Clinic, Military Law Clinic, Poverty Law Clinic, Securities Regulation Clinic, Workers Compensation Clinic, and an independent clinical program. Clinical legal education was here to stay.

Remember those days in the old clinic house? It was ours. We got it ready for the fall onslaught. I still see Jeanne Schleh, Deborah Eisenstadt, and me scrubbing the kitchen floor, asking each other plaintively if there wasn't something we could use to keep it looking good. There was, of course. It was called floor wax, but we weren't home enough to have used it.

Remember how we worked, worked, worked? Probably some of the hardest work you had ever done. But then the good times rolled—parties in the basement, wine and tall tales flowing. Law student language—and the language of our clients in the courts—was rough. My language became correspondingly rough—just to be understood, you know. But when I went up to the court, I decided I'd better clean up my act. My colleagues were so respectful and well-spoken. Years later, Falon Kelly said to me, in a moment of confidence, "We sure had to clean up our language when you came!"

When Justice Warren Burger was trashing attorneys who appeared in the courts, I said proudly, "I know several hundred attorneys out there in Minnesota who can handle your legal problems in a professionally responsible way or will send you to someone who can." Of all of you who came through my programs there was perhaps only one whom I hoped would represent a bank or deal with people on an arms-length basis. I trusted you then and trust you even more now. And I am very proud of you. Somehow I feel that the worst cannot happen to this constitutional democracy of ours while you are out there representing all of us.